

Senate Bill 201

By: Senators Harp of the 29th and Hill of the 32nd

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations,  
2 so as to provide for family law arbitration; to provide for legislative findings; to provide for  
3 a short title; to provide for definitions; to provide for applicability; to provide for notice; to  
4 provide for effect of agreement to arbitrate and nonwaivable provisions; to provide for  
5 judicial relief; to provide for an agreement to arbitrate; to provide for a motion to compel or  
6 stay arbitration; to provide for remedies; to provide procedure for arbitration, admission of  
7 evidence, evidence, witnesses, subpoenas, and discovery; to provide for appointment of an  
8 arbitrator and disclosures by arbitrators; to provide for immunity; to provide for enforcement  
9 of an arbitration award; to provide for modification and vacation of arbitration awards; to  
10 provide for award of attorney's fees and expenses; to provide for jurisdiction and venue; to  
11 provide for appeal; to provide for a savings clause; to provide for related matters; to provide  
12 for an effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 The General Assembly of Georgia declares that it is the policy of this state to allow, by  
16 agreement of all parties, the arbitration of all issues arising from a marital separation or  
17 divorce, and issues of child custody and child support arising between parents who were  
18 never married to each other, while preserving a right of modification based on substantial  
19 change of circumstances related to alimony, child custody, and child support. Pursuant to  
20 this policy, the purpose of this Act is to provide for arbitration as an efficient and speedy  
21 means of resolving these disputes, consistent with domestic relations law in this state, to  
22 provide default rules for the conduct of arbitration proceedings, and to assure access to the  
23 courts of this state for proceedings ancillary to arbitration.

24 **SECTION 2.**

25 This Act shall be known and may be cited as the "Georgia Family Law Arbitration Act."

**SECTION 3.**

Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is amended by adding a new chapter to read as follows:

**"CHAPTER 16**

19-16-1.

As used in this chapter, the term:

(1) 'Arbitration organization' means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

(2) 'Arbitrator' means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

(3) 'Court' means a court of competent jurisdiction in this state.

(4) 'Knowledge' means actual knowledge.

(5) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; political subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(6) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

19-16-2.

(a) Except as otherwise provided in this chapter, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in the ordinary course, whether or not the other person acquires knowledge of the notice.

(b) A person has notice if the person has knowledge of the notice or has received notice.

(c) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

19-16-3.

This chapter shall govern an agreement to arbitrate made on or after July 1, 2007, and shall provide the exclusive means by which agreements to arbitrate claims and controversies involving alimony, child custody, and child support can be enforced.

19-16-4.

(a) Except as otherwise provided in subsections (b) and (c) of this Code section, a party to an agreement to arbitrate or to an arbitration proceeding may waive, or the parties may vary the effect of, the requirements of this chapter to the extent provided by law.

(b) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(1) Waive or agree to vary the effect of the requirements of subsection (a) of Code Section 19-16-5, Code Section 19-16-6, subsection (a) or (b) of Code Section 19-16-8, subsection (a) or (b) of Code Section 19-16-17, or Code Section 19-16-27;

(2) Agree to unreasonably restrict the right under Code Section 19-16-9 to notice of the initiation of an arbitration proceeding;

(3) Agree to unreasonably restrict the right under Code Section 19-16-12 to disclosure of any facts by a neutral arbitrator; or

(4) Waive the right under Code Section 19-16-16 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under this chapter.

(c) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties shall not vary the effect of, the requirements of this Code section or Code Sections 19-16-3 and 19-16-7, subsection (c), (d), or (e) of Code Section 19-16-8, Code Sections 19-16-14 and 19-16-18, subsection (d) or (e) of Code Section 19-16-20, Code Sections 19-16-22, 19-16-23, 19-16-24, and 19-16-25, subsection (a) or (b) of Code Section 19-16-26, or Code Section 19-16-29.

19-16-5.

(a) Except as otherwise provided in Code Section 19-16-29, an application for judicial relief under this chapter shall be made by motion to the court and heard in the manner provided by law or Uniform Superior Court Rule for making and hearing motions.

(b) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under this chapter shall be served in the manner provided by law for the service of a summons in a civil action. Otherwise, notice of the motion shall be given in the manner prescribed by law or rule of court for serving motions in pending cases.

19-16-6.

(a) During or after marriage, parties may agree in a record to submit to arbitration any controversy, except for the divorce itself, arising out of the marital relationship. Before marriage, parties may agree in a record to submit to arbitration any controversy, except for child support, child custody, or the divorce itself, arising out of the marital relationship. Parties who have never been married to each other, but who are the parents of the same

child, after the birth of the child, may agree in writing to submit to arbitration any controversy regarding child custody, child support, and related claims. Such an agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for revocation of a contract.

(b) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(c) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(d) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

19-16-7.

(a) On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

(1) If the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate; and

(2) If the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

(b) On motion of a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

(c) If the court finds that there is no enforceable agreement to arbitrate, it shall not pursuant to subsection (a) or (b) of this Code section order the parties to arbitrate.

(d) The court shall not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

(e) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in a court, a motion under this Code section shall be made in that court. Otherwise, a motion under this Code section may be made in any court as provided in Code Section 19-16-28.

(f) If a party makes a motion to the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this Code section.

(g) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

19-16-8.

(a) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(b) After an arbitrator is appointed and is authorized and able to act:

(1) The arbitrator may issue such orders for provisional remedies, including temporary awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(2) A party to an arbitration proceeding may move the court for a provisional remedy if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

(c) Availability of provisional remedies under this Code section may be limited by the parties' prior written agreement as provided in Code Section 19-16-6, except for relief pursuant to Chapter 13 of this title; federal law; or treaties to which the United States is a party, whose purpose is to provide immediate, emergency relief or protection.

(d) Arbitrators who have cause to suspect that any child is abused or neglected shall report the case of that child to the commissioner of human resources.

(e) A party shall not waive a right of arbitration by making a motion pursuant to subsection (a) or (b) of this Code section.

19-16-9.

(a) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified mail or statutory overnight delivery, return receipt requested, or by service as authorized for the commencement of a civil action. The notice shall describe the nature of the controversy and the remedy sought.

(b) Unless a person objects for lack or insufficiency of notice under subsection (c) of Code Section 19-16-15 no later than the beginning of the arbitration hearing, the person by appearing at the hearing waives any objection to lack or insufficiency of notice.

19-16-10.

(a) Except as otherwise provided in subsection (c) of this Code section, upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

(1) There are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration with a third person;

(2) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(3) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(4) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(b) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(c) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

19-16-11.

(a) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method shall be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

(b) An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

19-16-12.

(a) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and the arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(1) A financial or personal interest in the outcome of the arbitration proceeding; or

(2) An existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness, or other arbitrators.

(b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and the arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

(c) If an arbitrator discloses a fact required by subsection (a) or (b) of this Code section to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under paragraph (2) of subsection (a) of Code Section 19-16-23 for vacating an award made by the arbitrator.

(d) If the arbitrator did not disclose a fact as required by subsection (a) or (b) of this Code section, upon timely objection by a party, the court under paragraph (2) of subsection (a) of Code Section 19-16-23 may vacate an award.

(e) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under paragraph (2) of subsection (a) of Code Section 19-16-23.

(f) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under paragraph (2) of subsection (a) of Code Section 19-16-23.

19-16-13.

If there is more than one arbitrator, the powers of an arbitrator shall be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under subsection (c) of Code Section 19-16-15.

19-16-14.

(a) An arbitrator or an arbitration organization acting in that capacity shall be immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(b) The immunity afforded by this Code section supplements any immunity under other law.

(c) The failure of an arbitrator to make a disclosure required by Code Section 19-16-12 shall not cause any loss of immunity under this Code section.

(d) In a judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization shall not be competent to testify, and may not be required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection shall not apply to:

(1) The extent necessary to determine the claim of an arbitrator, arbitration organization, or representative of the arbitration organization against a party to the arbitration proceeding; or

(2) A hearing on a motion to vacate an award under paragraph (1) or (2) of subsection (a) of Code Section 19-16-23 if the movant establishes prima facie that a ground for vacating the award exists.

(e) If a person commences a civil action against an arbitrator, arbitration organization, or representative of an arbitration organization arising from the services of the arbitrator, organization, or representative, or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (d) of this Code section, and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorney's fees, costs, and other reasonable expenses of litigation.

19-16-15.

(a) An arbitrator may conduct an arbitration in such a manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality, and weight of any evidence.

(b) An arbitrator may decide a request for summary disposition of a claim or particular issue:

(1) If all interested parties agree; or

(2) Upon request of one party to the arbitration proceeding if such party gives notice to all other parties to the proceeding, and the other parties have a reasonable opportunity to respond.

(c) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection.



1 Upon request of a party to the arbitration proceeding and for good cause shown, or upon  
2 the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as  
3 necessary but may not postpone the hearing to a time later than that fixed by the agreement  
4 to arbitrate for making the award unless the parties to the arbitration proceeding consent  
5 to a later date. The arbitrator may hear and decide the controversy upon the evidence  
6 produced although a party who was duly notified did not appear. The court, upon request,  
7 may direct the arbitrator to conduct the hearing promptly and render a timely decision.

8 (d) At a hearing under subsection (c) of this Code section, a party to the arbitration  
9 proceeding has a right to be heard, to present evidence material to the controversy, and to  
10 cross-examine witnesses appearing at the hearing.

11 (e) If an arbitrator ceases or is unable to act during the arbitration proceeding, a  
12 replacement arbitrator shall be appointed in accordance with Code Section 19-16-11 to  
13 continue the proceeding and to resolve the controversy.

14 19-16-16.

15 A party to an arbitration proceeding may be represented by an attorney.

16 19-16-17.

17 (a) An arbitrator may issue a subpoena for the attendance of a witness and for the  
18 production of records and other evidence at any hearing and may administer oaths. A  
19 subpoena shall be served in the manner for service of subpoenas in a civil action and, upon  
20 motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the  
21 manner for enforcement of subpoenas in a civil action.

22 (b) In order to make the proceedings fair, expeditious, and cost effective, upon request of  
23 a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition  
24 of any witness to be taken for use as evidence at the hearing, including a witness who  
25 cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine  
26 the conditions under which the deposition shall be taken.

27 (c) An arbitrator may permit such discovery as the arbitrator decides is appropriate in the  
28 circumstances, taking into account the needs of the parties to the arbitration proceeding and  
29 other affected persons and the desirability of making the proceeding fair, expeditious, and  
30 cost effective.

31 (d) If an arbitrator permits discovery under subsection (c) of this Code section, the  
32 arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's  
33 discovery-related orders, issue subpoenas for the attendance of a witness and for the  
34 production of records and other evidence at a discovery proceeding, and take action against

1 a noncomplying party to the extent a court could if the controversy were the subject of a  
2 civil action in this state.

3 (e) An arbitrator may issue a protective order to prevent the disclosure of privileged  
4 information, confidential information, trade secrets, and other information protected from  
5 disclosure to the extent a court could if the controversy were the subject of a civil action  
6 in this state.

7 (f) All laws compelling a person under subpoena to testify and all fees for attending a  
8 judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an  
9 arbitration proceeding as if the controversy were the subject of a civil action in this state.

10 (g) The court may enforce a subpoena or discovery-related order for the attendance of a  
11 witness within this state and for the protection of records and other evidence issued by an  
12 arbitrator in connection with an arbitration proceeding in another state upon conditions  
13 determined by the court so as to make the arbitration proceeding fair, expeditious, and cost  
14 effective. A subpoena or discovery-related order issued by an arbitrator in another state  
15 shall be served in the manner provided by law for service of subpoenas in a civil action in  
16 this state and, upon motion to the court by a party to the arbitration proceeding or the  
17 arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil  
18 action in this state.

19 19-16-18.

20 If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding,  
21 the party may request the arbitrator to incorporate the ruling into an award under Code  
22 Section 19-16-19. A prevailing party may make a motion to the court for an expedited  
23 order to confirm the award under Code Section 19-16-22, in which case the court shall  
24 summarily decide the motion. The court shall issue an order to confirm the award unless  
25 the court vacates, modifies, or corrects the award under Code Sections 19-16-23, 19-16-24,  
26 and 19-16-25.

28 19-16-19.

29 (a) An arbitrator shall make a record of an award. The record shall be signed or  
30 electronically signed by any arbitrator who concurs with the award. The arbitrator or the  
31 arbitration organization shall give notice of the award, including a copy of the award, to  
32 each party to the arbitration proceeding.

33 (b) An award shall be made within the time specified by the agreement to arbitrate or, if  
34 not specified therein, within the time ordered by the court. The court may extend or the  
35 parties to the arbitration proceeding may agree in a record to expand the time. The court  
36 or the parties may do so within or after the time specified or ordered. A party waives any

objection that an award was not timely made unless that party gives notice of the objection to the arbitrator before receiving notice of the award.

(c) Unless the parties agree otherwise in a record, the arbitrator shall render a reasoned award.

19-16-20.

(a) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

(1) Upon a ground stated in paragraph (1) or (3) of subsection (a) of Code Section 19-16-24;

(2) Because the arbitrator had not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) To clarify the award.

(b) A motion under subsection (a) of this Code section shall be made and notice given to all parties within 15 days after the movant receives notice of the award.

(c) A party to the arbitration proceeding shall give notice of any objection to the motion within ten days after receipt of the notice.

(d) If a motion to the court is pending under Code Section 19-16-22, 19-16-23, 19-16-24, or 19-16-25, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(1) Upon a ground stated in paragraph (1) or (3) of subsection (a) of Code Section 19-16-24;

(2) Because the arbitrator had not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) To clarify the award.

(e) An award modified or corrected pursuant to this Code section is subject to subsection (a) of Code Section 19-16-19 and Code Sections 19-16-22 through 19-16-25.

19-16-21.

(a) An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim, and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(b) An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(c) As to all remedies other than those authorized by subsections (a) and (b) of this Code section, an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under Code Section 19-16-22 or for vacating an award under Code Section 19-16-23.

(d) An arbitrator's expenses and fees, together with other expenses, shall be paid as provided in the award.

(e) If an arbitrator awards punitive damages or other exemplary relief under subsection (a) of this Code section, the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of the punitive damages or other exemplary relief.

19-16-22.

After a party to an arbitration receives notice of an award, the party may make a motion to the court for an order confirming the award, at which time the court shall issue a confirming order unless the parties agree otherwise in a record that part or all of an award shall not be confirmed by the court, the award is modified or corrected pursuant to Code Sections 19-16-20, 19-16-24, and 19-16-25, or the award is vacated pursuant to Code Section 19-16-23.

19-16-23.

(a) Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if the court finds that an award for child custody or child support is not in the best interest of the child or the rights of that party were prejudiced by:

(1) Corruption, fraud, or misconduct in procuring the award;

(2) Partiality of an arbitrator appointed as a neutral;

(3) An overstepping by the arbitrators of their authority or such imperfect execution of it that a final and definite award upon the subject matter submitted was not made;

(4) A failure to follow the procedure of this chapter, unless the party applying to vacate the award continued with the arbitration with notice of this failure and without objection;  
or

(5) The arbitrator's manifest disregard of the law.

The burden of proof at a hearing under this subsection is on the party seeking to vacate the arbitrator's award.

(b) A motion under this Code section shall be filed within 30 days after the movant receives notice of the award pursuant to Code Section 19-16-19 or within 30 days after the movant receives notice of a modified or corrected award pursuant to Code Section 19-16-20, unless the movant alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion shall be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the movant.

(c) If the court vacates an award on a ground other than that set forth in paragraph (5) of subsection (a) of this Code section, it may order a rehearing. If the award is vacated on a ground stated in paragraph (1) or (2) of subsection (a) of this Code section, the rehearing shall be before a new arbitrator. If the award is vacated on a ground stated in paragraph (3), (4), or (6) of subsection (a) of this Code section, the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator shall render the decision in the rehearing within the same time as that provided in subsection (b) of Code Section 19-16-19 for an award.

(d) If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award pursuant to Code Section 19-16-24 or 19-16-25 is pending.

19-16-24.

(a) Upon motion made within 30 days after the movant receives notice of the award pursuant to Code Section 19-16-19 or within 30 days after the movant receives notice of a modified or corrected award pursuant to Code Section 19-16-20, the court shall modify or correct the award if:

(1) There was an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;

(2) The arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision on the claims submitted; or

(3) The award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(b) If a motion made under subsection (a) of this Code section is granted, the court shall modify and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

(c) A motion to modify or correct an award pursuant to this Code section may be joined with a motion to vacate the award.

1 19-16-25.

2 (a) A court or arbitrator may modify an award for alimony, child support, or child custody  
3 under conditions stated in Chapter 6 or 9 of this title in accordance with procedures stated  
4 in subsections (b) through (f) of this Code section.

5 (b) Unless the parties have agreed in a record that an award for alimony shall be  
6 nonmodifiable, an award by arbitrators for alimony pursuant to Chapter 6 of this title may  
7 be modified if a court order for alimony could be modified pursuant to Code Section  
8 19-6-19.

9 (c) An award by arbitrators for child support or child custody may be modified if a court  
10 order for child support or child custody could be modified pursuant to Chapter 6 or 9 of this  
11 title.

12 (d) If an award for modifiable alimony or an award for child support or child custody has  
13 not been confirmed pursuant to Code Section 19-16-22, upon the parties' agreement in a  
14 record these matters may be submitted to arbitrators chosen by the parties as provided in  
15 Code Section 19-16-11, in which case Code Section 19-16-20 and Code Sections 19-16-22  
16 through 19-16-25 shall apply to the modified award.

17 (e) If an award for modifiable alimony or an award for child support or child custody has  
18 been confirmed pursuant to Code Section 19-16-22, upon the parties' agreement in a record  
19 and joint motion the court may remit these matters to arbitrators chosen by the parties as  
20 provided in Code Section 19-16-11, in which case Code Section 19-16-20 and Code  
21 Sections 19-16-22 through 19-16-25 shall apply to the modified award.

22 (f) Except as otherwise provided in this Code section, the provisions of Code Section  
23 19-16-24 shall apply to modifications or corrections of awards for alimony, child support,  
24 or child custody.

25 19-16-26.

26 (a) Upon granting an order confirming, vacating without directing a rehearing, modifying,  
27 or correcting an award, the court shall enter a judgment in conformity therewith. The  
28 judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

29 (b) A court may allow reasonable costs of the motion and subsequent judicial proceedings.

30 (c) On application of a prevailing party to a contested judicial proceeding under Code  
31 Section 19-16-22, 19-16-23, 19-16-24, or 19-16-25, the court may add reasonable  
32 attorney's fees and other reasonable expenses of litigation incurred in a judicial proceeding  
33 after the award is made to a judgment confirming, vacating without directing a rehearing,  
34 modifying, or correcting an award.

35 (d) The court in its discretion may order that any arbitration award or order or any  
36 judgment or court order entered as a court order or judgment pursuant to this chapter, or

any part of such arbitration award or judgment or court order, be sealed, to be opened only upon order of the court upon good cause shown. Upon good cause shown, the court may order resealing of such opened arbitration awards or orders or judgments or court orders. The court in its discretion may order that any arbitration award or order or any judgment or court order entered as a court order or judgment pursuant to this chapter, or any part of such arbitration award or order or judgment or court order, be redacted, such redactions to be opened only upon order of the court upon good cause shown. Upon good cause shown, the court may order redaction of such previously redacted arbitration awards or orders or judgments or court orders opened pursuant to the court's order.

19-16-27.

(a) A court of this state having jurisdiction over the controversy and the parties may enforce the agreement to arbitrate.

(b) An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under this chapter.

19-16-28.

A motion pursuant to Code Section 19-16-5 shall be made in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion may be made in the court of any county in which an adverse party resides. All subsequent motions shall be made in the court hearing the initial motion unless the court otherwise directs.

19-16-29.

(a) An appeal may be taken from:

- (1) An order denying a motion to compel arbitration;
- (2) An order granting a motion to stay arbitration;
- (3) An order confirming or denying confirmation of an award;
- (4) An order modifying or correcting an award;
- (5) An order vacating an award without directing a rehearing; or
- (6) A final judgment entered pursuant to this chapter.

(b) A party may not appeal on the basis that the arbitrator failed to apply correctly the law under this title if the party continued with arbitration without objection pursuant to paragraph (4) of subsection (a) of Code Section 19-16-23.

(c) An appeal under this Code section shall be taken as from an order or a judgment in a civil action.

1 19-16-30.

2 This chapter shall not affect an action or proceeding commenced or right accrued before  
3 January 1, 2008. Subject to Code Section 19-16-3, an arbitration agreement made before  
4 the effective date of this chapter shall be governed by this title."

5 **SECTION 4.**

6 This Act shall become effective on January 1, 2008.

7 **SECTION 5.**

8 All laws and parts of laws in conflict with this Act are repealed.